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UNCLAS SECTION 01 OF 03 TEGUCIGALPA 002829

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E.O. 12958: N/A

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SUBJECT: NEW LAND CASE IN ROATAN GOOD TEST FOR GOH RESOLVE

REF: Tegucigalpa 01756

11. (SBU) Summary. American citizens Jean and Roger Moore were suddenly and forcefully evicted from their Roatan home in August of this year when the Melvyn McNab family presented (and local judicial officials accepted) unsubstantiated arguments that they had claim to this land. A recently done cadastral survey by the GOH indicates that the McNab claims are not true. President Maduro, Supreme Court President Vilma Morales, land registry officials and local government representatives in the islands are all aware of this case. The Supreme Court has brought the case to Tegucigalpa to investigate for irregularities. The Embassy believes the dispute represents an important test of the GOH's professed interest in improving legal protections for investors and positioning the Bay Islands for increased investment and tourism. End Summary.

12. (SBU) The Moores, and several other Americans, purchased their beachfront lots in Paya Bay on the island of Roatan from Amcit Eric Anderson in 1994; the property that he subdivided is known in the land registry as plat number 306002. He had full title to the land. Anderson also has an adjacent property, Plat 306001; it is this adjacent property, purchased in the 1960s in the name of another Honduran islander (at that time expats were not allowed to own land near the coast) that has been the source of a property dispute with Melvyn McNab since 1996. This year, however, McNab has expanded the dispute by providing to the courts a redrawn map that changes the shape and location of the disputed property (306001) to include the lots Anderson sold to the Moores, Meyers and other Amcits. The official cadastral survey of the islands, just completed this summer, clearly shows that the Moores' land is located in plat number 306002.

13. (SBU) On August 28th of this year, Jean Moore sent a fax to the Embassy describing their forceful eviction on August 22nd from their home on the island of Roatan, Honduras. According to the Moores, on August 9th, they received a phone call from their caretaker who had been physically removed in handcuffs from the house. Judge Casco took possession of all house keys from the caretaker. The McNab family then placed guards around the Moore's house and property. The Moore's arrived on Roatan on the 17th and were denied access to their house. Their attorney filed a petition for an appeal for relief under the Honduran Constitution, an amparo, to stop the eviction act. The petition was denied. In the following days the Moores and their attorneys tried to demonstrate their clear title over the land and convince the judge to overturn his ruling, without success. On the 22nd, the Moores were told to follow the police to their property. The McNab family, several police officers, including the Chief of Police, and the McNab's attorney were all present as the Moores were forced to remove all their personal belongings from their property in a 2 hour time period. They were not allowed to lock the house and had to leave several items behind. The Moores report that there is already a family of six living in the Moore house and some of their property has been damaged.

14. (SBU) Econoffs put the Moores in touch with Octavio Sanchez, a legal advisor to the President, and Henry Merriam, coordinator of a GOH program to complete cadastral surveys and unify the land registries throughout Honduras. They arranged to have a copy of the official survey of this part of Roatan prepared. The catastral survey appears to fully support the American citizens' assertion that the Honduran party has no legal grounds for their claim to the Moore's property.

15. (SBU) On September 11th the Embassy sent a letter signed by the Charg d'Affaires, Roger Pierce, to President Maduro and Honduran Supreme Court (CSJ) President, Vilma Morales with copies to Investment Minister, Camilo Atala, Tourism Minister, Thierre Pierrefeu, and Cesar Batres, Godofredo

Alvarado and Octavio Sanchez, legal advisors to President Maduro, stating the Embassy's concern about this case and the apparent disregard of investor rights. Econoffs visited Roatan on September 26-29 to emphasize the importance of fair treatment of Amcit investors in general, and quick resolution of the Moore dispute in particular, in conversations with the Governor, municipal authorities, judicial authorities and the local land registry representative. We also met with the director of the IDB-funded Tourism Ministry project that performed the usd 1.5 million cadastral survey and urged rapid integration of the cadastral results with the existing land registry.

16. (SBU) Partially as a result of Embassy advocacy, the Moore case has received rare high-level attention in the GOH. We are aware that President Maduro, CSJ President Morales and the Minister of Interior (Gobernacion y Justicia) have discussed the case. Supreme Court President Morales instructed the court in La Ceiba to send the case to the Tegucigalpa courts to be reviewed for judicial irregularities. CSJ President Morales told econoff on October 2 that the review will occur quickly and that she will notify the Embassy of the results of the review.

Background on the Legal Issues in the Dispute

17. (SBU) Background: In the 1960's, Roy Anderson bought a 15-acre parcel of land in Wilkes Point, plat number 306001. At that time, U.S. citizens weren't allowed to purchase land so Mr. Anderson bought the property from the McLaughlin family using a Honduran woman named Merly Cooper and registered it under their company name, Calico S.A.

18. (SBU) In 1974, Roy Anderson purchased a second parcel of land totaling 17 acres directly from the McLaughlin family, as the law now allowed foreigners to own coastal land under certain conditions (small private investor, tourism, etc.) This second parcel is adjacent to the first, and is located in Wilkes Point West - with plat number 306002. In 1994, Roger and Jean Moore purchased two lots from Erik Anderson (Roy Anderson's son) on parcel 306002.

19. (SBU) Mervin and Lurlene Cooper de McNab own land adjacent to Wilkes Point West called Paya Bay. Lurlene McNab's maiden name is Cooper. The McNab's are claiming that Lurlene is the sole heiress to the deceased Merle Cooper's land, however Merle Cooper never married and had no children, therefore has no heirs. The inheritance battle is over parcel 306001 (the 15 acres purchased through Merle Cooper.) The Moore property is on parcel 306002. However, Mervin McNab pulled up all the fence lines and survey markers between the two properties that runs North to South and re-drew the map to show that the 15 acres runs East to West along the coast cutting through both parcels (map faxed to desk). The official Government survey that was recently completed using GPS, satellite tracking, and topographical surveys clearly shows the delineation of the two parcels, with no depiction of the McNab redrawn parcel.

10. (SBU) We understand from judicial authorities that under Honduran law the Moores' property should not have been subject to the confiscation because they are not a party to the underlying dispute. And, in fact, when the Moores first appealed to the judge to rescind the eviction order, the judge agreed, noting the Moores' name did not appear on the court documents. Rather Erik Anderson was the defendant for a 15-acre parcel in Wilkes Point. However, when the Moores went to the police station to pick up their keys, the judge had changed his decision, and the eviction order was enforced. The Moores believe the McNab's attorney, through her political connections, was responsible for the change in the judge's decision.

Comment

11. (SBU) We consider this an important test case for the GOH's resolve to attack the endemic problems of land title and abuse of the judicial system. The Bay Islands have a history of problems of this type, but the new cadastral survey and the proposed land registry project together provide the government and court system with an important set of tools. We are hoping that the political will exists to ensure that a rapid and just resolution for the Moores' case (and the other Amcits who purchased property from Eric Anderson) can be found. End Comment.

PALMER